

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

**ERIC WHITE, on behalf of himself and
all others similarly situated,**

Plaintiff,

v.

**UNITED AIRLINES, INC. and UNITED
CONTINENTAL HOLDINGS, INC.,**

Defendants,

Case No. 19-cv-00114

Honorable Charles R. Norgle, Sr.

**PLAINTIFF’S MOTION TO BE DECLARED EXEMPT
FROM FILING FEES UNDER 38 U.S.C. § 4323(h)(1)**

Plaintiff Eric White, by and through his attorneys, respectfully moves the Court to grant leave to commence his civil action without being required to prepay a filing fee, in accordance with the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), which provides that servicemember-plaintiffs in USERRA actions need not pay fees or court costs. 38 U.S.C. § 4323(h)(1).

Section 4323(h)(1) of USERRA states that “no fees or court costs may be charged or taxed against any person claiming rights under [USERRA].” 38 U.S.C. § 4323(h)(1); *accord* 20 C.F.R. § 1002.310 (stating that “[n]o fees or court costs may be charged or taxed against an individual if he or she is claiming rights under [USERRA].”).

As the Seventh Circuit held, when a servicemember-plaintiff commences an action under USERRA, he is exempt from paying any filing fees. *Davis v. Advocate Health Ctr. Patient Care Express*, 523 F.3d 681, 685 (7th Cir. 2008). “In light of the plain language of 38 U.S.C. § 4323(h)(1) and Congress’s intent, in USERRA and elsewhere, to lessen the costs of litigation for

veterans . . . 38 U.S.C. § 4323(h)(1) permits a USERRA litigant to initiate suit without prepaying the filing fee.” *Id.*

Because Plaintiff’s action is brought pursuant to several provisions of USERRA, including 38 U.S.C. §§ 4316 & 4318, Plaintiff need not pay a filing fee in commencing his action.

For the foregoing reasons, Plaintiff respectfully requests that this Court grant Plaintiff’s motion to proceed with this action without prepaying a filing fee.

Dated: January 9, 2019

Respectfully submitted,

/s/ /Peter Romer-Friedman

Peter Romer-Friedman (Admitted to N.D. Ill.)
Outten & Golden LLP
601 Massachusetts Avenue NW
Second Floor West
Washington, DC 20001
Tel: (202) 847-4400
Email: prf@outtengolden.com

Paul W. Mollica (Admitted to N.D. Ill.).
Outten & Golden LLP
161 North Clark Street
Suite 1600
Chicago, IL 60601
(312) 809-7010
pwmollica@outtengolden.com

R. Joseph Barton (Admitted to N.D. Ill.).
Block & Leviton LLP
1735 20th Street NW
Washington, DC 20009
Tel: (202) 734-7046
Fax: (617) 507-6020
Email: jbarton@blockesq.com

Thomas G. Jarrard (*pro hac vice* motion forthcoming)
Law Office of Thomas G. Jarrard LLC
1020 N. Washington Street
Spokane, WA 99201

Tel: (425) 239-7290
Fax: (509) 326-2932
Email: tjarrard@att.net

Matthew Z. Crotty (*pro hac vice* motion
pending)
Crotty & Son Law Firm, PLLC
905 W. Riverside Avenue
Suite 404
Spokane, WA 99201
Tel: (509) 850-7011
Email: matt@crottyandson.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Peter Romer-Friedman, an attorney, hereby certify that on January 9, 2019, I filed the foregoing *PLAINTIFF'S MOTION TO BE DECLARED EXEMPT FROM FILING FEES UNDER 38 U.S.C. § 4323(h)(1)* via the Court's CM/ECF system, which caused a copy of the same to be served upon all counsel of record via ECF, and via certified mail to the following:

UNITED AIRLINES, INC.
c/o CT Corporation System
208 S. LaSalle Street, Suite 814
Chicago, Illinois 60604

UNITED CONTINENTAL HOLDINGS, INC.
c/o CT Corporation System
208 S. LaSalle Street, Suite 814
Chicago, Illinois 60604

/s/ Peter Romer-Friedman
Peter Romer-Friedman